

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)	
)	No. 14-CR-40028-TSH
v.)	
)	
JAMES MERRILL and)	
CARLOS WANZELER)	

**COMBINED INTERIM STATUS REPORT, JOINT MOTION
TO ADJOURN UPCOMING STATUS CONFERENCE, AND REQUEST FOR THE
EXCLUSION OF TIME UNDER THE SPEEDY TRIAL ACT**

Pursuant to Local Rule 116.5, the parties submit this report to summarize the current status of ongoing discovery activities. The government has provided substantial discovery to date, including additional discovery since the last status date, but discovery is not complete.

Also, as discussed below, the parties jointly move to adjourn the status conference now scheduled for Monday, April 13, 2015, to June 12, 2015, in light of this report.

Interim Status Report

Since the last status date, the government has produced approximately 45 GB of additional information received as a result of a search warrant executed at an internet service provider. This information consists largely of TelexFree-related YouTube videos and back-up and subscriber data. The government has also produced the contents of a personal email account belonging to defendant James Merrill.

The government recently met with Brazilian prosecutors and law enforcement agents, who are conducting a separate investigation of TelexFree and certain individuals. The Brazilian authorities have produced a large amount of data and will be producing additional materials in the coming weeks. This additional data, mostly derived from multiple search warrants executed in Brazil, will likely amount to 100s of gigabytes. Once the government has received all of the materials from the Brazilian authorities it will copy the materials for the defendant.

Overall, at this stage the following discovery remains to be produced:

- Data contained in two Hotmail email accounts and one Apple email account, also received in response to a search warrant. Production of this material has been delayed by errors in the data as produced by the email providers.
- Data (5-10 TB) received from a cloud-based service that stored data for TelexFree.
- Materials received in mid-March 2015 from the Brazilian authorities. Among other things, this includes a forensic report by Ernst & Young, which was commissioned some time ago by the Brazilian government to opine on whether TelexFree's operations amounted to a pyramid scheme. (The report is in Portuguese – the government will produce the original and a translation that is currently in process). As noted above, the government expects a substantial additional production from Brazil in mid-April 2015.
- Various recordings made by undercover HSI agents at TelexFree conference and in conversations with a TelexFree promoter.

In light of the above, and in keeping with the Court's designation of this matter as a "complex case" under 18 U.S.C. s 3161(h)(7)(B)(ii), the government suggests an interim status conference in approximately 60 days. Beyond waiting to receive additional productions from Brazil, the substantial additional data sets, *e.g.*, from the cloud-based provider and the Brazilian government, will take time to process and copy.

**Motion to Adjourn Scheduled Status Conference and
Exclude the Time Under the Speedy Trial Act**

The Court has scheduled a status conference for April 13, 2015. Because discovery is proceeding steadily in this unusually large case, and the parties have been communicating as needed about the production, the parties request that the conference be adjourned to June 12, 2015, or some similar date that is convenient for the Court. Both parties also request that the Court exclude the time from April 13, 2015, through June 12, 2015, from the speedy trial clock, pursuant to Local Rule 112.2(b), the Speedy Trial Act, 18 U.S.C. §§ 3161(h)(7)(A) & 3161(h)(7)(B)(iv), and §§ 5(b)(7)(A), 5(b)(7)(B) & 5(b)(7)(C)(iv) of the *Plan for Prompt Disposition of Criminal Cases* for the United States District Court for the District of

Massachusetts (effective December 2008), on the ground that the ends of justice are served by granting the adjournment and excluding this period, and outweigh the best interests of the public and the defendant in a speedy trial.

Respectfully submitted,

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By his Attorney,

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Date: April 10, 2015

CERTIFICATE OF SERVICE

I hereby certify that this document, filed through the ECF system, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing, and paper copies will be sent to those indicated as non-registered participants, on April 10, 2015.

/s/ Cory S. Flashner
Cory S. Flashner